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HOUSE BILL 2215

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Newhouse, Ross, McCune, Pearson, Chandler, Condotta, Roach, Ahern, Haler and Hailey

Read first time 02/13/2007. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to combating gang-related crime; amending RCW  
2 9A.46.120 and 13.40.0357; reenacting and amending RCW 9.94A.515,  
3 9.94A.533, and 9.94A.411; adding new sections to chapter 9A.46 RCW;  
4 adding a new section to chapter 9A.48 RCW; adding a new section to  
5 chapter 9.94A RCW; creating new sections; prescribing penalties; making  
6 appropriations; providing an expiration date; and declaring an  
7 emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds that gang violence is  
10 an increasingly serious problem that threatens the long-term economic,  
11 social, and public safety interests of the state. The scourge of gangs  
12 is a clear and present danger to our communities. Those who live where  
13 gang membership and activity is on the rise find themselves living with  
14 the daily threat of intimidation and harassment. Gangs terrorize  
15 neighborhoods and adversely impact our quality of life by engaging in  
16 violence, drugs, and associated criminal activities. Individual gang  
17 members, gang cliques, or entire gang organizations traffic in drugs  
18 and gun running and commit assault, rape, robbery, burglary, extortion,  
19 auto theft, shootings, murder, and other felonies. Gang members are

1 coming to Washington from other states and countries with many  
2 supported by the sale of crack cocaine, heroin, and other illegal  
3 drugs. In many neighborhoods, children are born into or must contend  
4 with second and third-generation street gangs. The loss of life,  
5 property, and positive opportunity for growth caused by gang violence  
6 has reached intolerable levels. Increased gang activity has seriously  
7 strained the budgets of many local jurisdictions, as well as threatened  
8 the ability of the educational system to educate our youth. The  
9 destruction and fear generated by gangs in many communities have  
10 greatly elevated the critical importance of enacting effective measures  
11 to combat gang-related crime. Communities overwhelmed by violent gang  
12 activity must have relief from the blight of gang crime before  
13 revitalization, initiatives to strengthen families, school  
14 improvements, and other desired interventions can succeed. Law  
15 enforcement and prosecutors require assistance to combat this clear and  
16 present danger to the law-abiding residents of Washington. They must  
17 have the tools they need to aggressively combat gang-related crime and  
18 build strong cases that remove violent gang members from the streets.  
19 They need what criminal gang-related definitions clearly stated in  
20 state law so they can collect and share critical information with other  
21 law enforcement agencies and coordinate enforcement strategies across  
22 jurisdictional lines. They also need specific sanctions and sentencing  
23 enhancements to ensure that those who commit gang-related crimes are  
24 held fully accountable for the harm and suffering they inflict on  
25 society. It is the intent of this act to provide the criminal justice  
26 community with the effective tools they need to better protect the  
27 citizens of Washington from gang-related crime.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.46 RCW  
29 to read as follows:

30 A person commits the offense of criminal gang intimidation if the  
31 person threatens another person with bodily injury because the other  
32 person refuses to join or has attempted to withdraw from a gang, as  
33 defined in section 5 of this act. Criminal gang intimidation is a  
34 class B felony.

35 **Sec. 3.** RCW 9A.46.120 and 1997 c 266 s 3 are each amended to read  
36 as follows:

1 A person commits the offense of school criminal gang intimidation  
2 if the person threatens another person with bodily injury because the  
3 other person refuses to join or has attempted to withdraw from a gang,  
4 as defined in RCW 28A.600.455, if the person who threatens the victim  
5 or the victim attends or is registered in a public or alternative  
6 school. School criminal gang intimidation is a class C felony.

7 NEW SECTION. Sec. 4. A new section is added to chapter 9A.48 RCW  
8 to read as follows:

9 (1) A person is guilty of tagging/gang graffiti if, as part of a  
10 gang-related offense as defined by section 5 of this act, he or she  
11 knowingly and maliciously causes physical damage to the property of  
12 another.

13 (2)(a) Except as provided in (b) of this subsection, tagging/gang  
14 graffiti is a gross misdemeanor.

15 (b) Tagging/gang graffiti is a class C felony if the person has  
16 previously been convicted under this section; or has previously been  
17 convicted of any other gang-related offense as defined by section 5 of  
18 this act.

19 NEW SECTION. Sec. 5. A new section is added to chapter 9.94A RCW  
20 to read as follows:

21 (1) In a criminal case wherein there has been a special allegation  
22 and evidence establishing that the accused or an accomplice was a  
23 criminal gang member or associate and that the crime was a gang-related  
24 offense, the court shall make a finding of fact of whether or not the  
25 accused or an accomplice was a criminal gang member or associate and  
26 whether or not the crime was a gang-related offense, or if a jury trial  
27 is had, the jury shall, if it finds the defendant guilty, also find a  
28 special verdict as to whether or not the defendant or an accomplice was  
29 a criminal gang member or associate and whether or not the crime was a  
30 gang-related offense.

31 (2) For the purpose of this chapter, unless the context indicates  
32 otherwise:

33 (a) "Criminal gang" means any ongoing formal or informal  
34 association, consisting of three or more individuals, that has as one  
35 of its primary purposes the commission of criminal activity.

1 (b) "Criminal gang member or associate" is a person who  
2 participates in the activity of a criminal gang by committing or  
3 attempting to commit criminal acts for the benefit of, at the direction  
4 of, or in association with any criminal gang with the intent to  
5 promote, further, or assist in any criminal conduct by the criminal  
6 gang. A criminal gang member or associate is also a person who has  
7 been previously found to be such in a court of record.

8 (c) "Gang-related offense" means any criminal act or attempted  
9 criminal act, conducted for the benefit of, at the direction of, or in  
10 association with a criminal gang, or conducted to gain admission to or  
11 promotion within a criminal gang.

12 **Sec. 6.** RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c  
13 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 are each  
14 reenacted and amended to read as follows:

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XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)

1 Trafficking 2 (RCW 9A.40.100(2))  
2 XI Manslaughter 1 (RCW 9A.32.060)  
3 Rape 2 (RCW 9A.44.050)  
4 Rape of a Child 2 (RCW 9A.44.076)  
5 X Child Molestation 1 (RCW 9A.44.083)  
6 Indecent Liberties (with forcible  
7 compulsion) (RCW  
8 9A.44.100(1)(a))  
9 Kidnapping 1 (RCW 9A.40.020)  
10 Leading Organized Crime (RCW  
11 9A.82.060(1)(a))  
12 Malicious explosion 3 (RCW  
13 70.74.280(3))  
14 Sexually Violent Predator Escape  
15 (RCW 9A.76.115)  
16 IX Abandonment of Dependent Person 1  
17 (RCW 9A.42.060)  
18 Assault of a Child 2 (RCW 9A.36.130)  
19 Criminal Mistreatment 1 (RCW  
20 9A.42.020)  
21 Explosive devices prohibited (RCW  
22 70.74.180)  
23 Hit and Run--Death (RCW  
24 46.52.020(4)(a))  
25 Homicide by Watercraft, by being  
26 under the influence of intoxicating  
27 liquor or any drug (RCW  
28 79A.60.050)  
29 Inciting Criminal Profiteering (RCW  
30 9A.82.060(1)(b))  
31 Malicious placement of an explosive 2  
32 (RCW 70.74.270(2))  
33 Robbery 1 (RCW 9A.56.200)  
34 Sexual Exploitation (RCW 9.68A.040)  
35 Vehicular Homicide, by being under  
36 the influence of intoxicating liquor  
37 or any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)  
2 Homicide by Watercraft, by the  
3 operation of any vessel in a  
4 reckless manner (RCW  
5 79A.60.050)  
6 Manslaughter 2 (RCW 9A.32.070)  
7 Promoting Prostitution 1 (RCW  
8 9A.88.070)  
9 Theft of Ammonia (RCW 69.55.010)  
10 Vehicular Homicide, by the operation  
11 of any vehicle in a reckless manner  
12 (RCW 46.61.520)  
13 VII Burglary 1 (RCW 9A.52.020)  
14 Child Molestation 2 (RCW 9A.44.086)  
15 Civil Disorder Training (RCW  
16 9A.48.120)  
17 Dealing in depictions of minor engaged  
18 in sexually explicit conduct (RCW  
19 9.68A.050)  
20 Drive-by Shooting (RCW 9A.36.045)  
21 Homicide by Watercraft, by disregard  
22 for the safety of others (RCW  
23 79A.60.050)  
24 Indecent Liberties (without forcible  
25 compulsion) (RCW 9A.44.100(1)  
26 (b) and (c))  
27 Introducing Contraband 1 (RCW  
28 9A.76.140)  
29 Malicious placement of an explosive 3  
30 (RCW 70.74.270(3))  
31 Negligently Causing Death By Use of a  
32 Signal Preemption Device (RCW  
33 46.37.675)  
34 Sending, bringing into state depictions  
35 of minor engaged in sexually  
36 explicit conduct (RCW 9.68A.060)

1 Unlawful Possession of a Firearm in  
2 the first degree (RCW 9A.41.040(1))  
3 Use of a Machine Gun in Commission  
4 of a Felony (RCW 9A.41.225)  
5 Vehicular Homicide, by disregard for  
6 the safety of others (RCW  
7 46.61.520)  
8 VI Bail Jumping with Murder 1 (RCW  
9 9A.76.170(3)(a))  
10 Bribery (RCW 9A.68.010)  
11 Criminal Gang Intimidation (section 2  
12 of this act)  
13 Incest 1 (RCW 9A.64.020(1))  
14 Intimidating a Judge (RCW 9A.72.160)  
15 Intimidating a Juror/Witness (RCW  
16 9A.72.110, 9A.72.130)  
17 Malicious placement of an imitation  
18 device 2 (RCW 70.74.272(1)(b))  
19 Possession of Depictions of a Minor  
20 Engaged in Sexually Explicit  
21 Conduct (RCW 9.68A.070)  
22 Rape of a Child 3 (RCW 9A.44.079)  
23 Theft of a Firearm (RCW 9A.56.300)  
24 Unlawful Storage of Ammonia (RCW  
25 69.55.020)  
26 V Abandonment of Dependent Person 2  
27 (RCW 9A.42.070)  
28 Advancing money or property for  
29 extortionate extension of credit  
30 (RCW 9A.82.030)  
31 Bail Jumping with class A Felony  
32 (RCW 9A.76.170(3)(b))  
33 Child Molestation 3 (RCW 9A.44.089)  
34 Criminal Mistreatment 2 (RCW  
35 9A.42.030)  
36 Custodial Sexual Misconduct 1 (RCW  
37 9A.44.160)

1 Domestic Violence Court Order  
2 Violation (RCW 10.99.040,  
3 10.99.050, 26.09.300, 26.10.220,  
4 26.26.138, 26.50.110, 26.52.070,  
5 or 74.34.145)  
6 Driving While Under the Influence  
7 (RCW 46.61.502(6))  
8 Extortion 1 (RCW 9A.56.120)  
9 Extortionate Extension of Credit (RCW  
10 9A.82.020)  
11 Extortionate Means to Collect  
12 Extensions of Credit (RCW  
13 9A.82.040)  
14 Incest 2 (RCW 9A.64.020(2))  
15 Kidnapping 2 (RCW 9A.40.030)  
16 Perjury 1 (RCW 9A.72.020)  
17 Persistent prison misbehavior (RCW  
18 9.94.070)  
19 Physical Control of a Vehicle While  
20 Under the Influence (RCW  
21 46.61.504(6))  
22 Possession of a Stolen Firearm (RCW  
23 9A.56.310)  
24 Rape 3 (RCW 9A.44.060)  
25 Rendering Criminal Assistance 1  
26 (RCW 9A.76.070)  
27 Sexual Misconduct with a Minor 1  
28 (RCW 9A.44.093)  
29 Sexually Violating Human Remains  
30 (RCW 9A.44.105)  
31 Stalking (RCW 9A.46.110)  
32 Taking Motor Vehicle Without  
33 Permission 1 (RCW 9A.56.070)  
34 IV Arson 2 (RCW 9A.48.030)  
35 Assault 2 (RCW 9A.36.021)

1 Assault 3 (of a Peace Officer with a  
2 Projectile Stun Gun) (RCW  
3 9A.36.031(1)(h))  
4 Assault by Watercraft (RCW  
5 79A.60.060)  
6 Bribing a Witness/Bribe Received by  
7 Witness (RCW 9A.72.090,  
8 9A.72.100)  
9 Cheating 1 (RCW 9.46.1961)  
10 Commercial Bribery (RCW 9A.68.060)  
11 Counterfeiting (RCW 9.16.035(4))  
12 Endangerment with a Controlled  
13 Substance (RCW 9A.42.100)  
14 Escape 1 (RCW 9A.76.110)  
15 Hit and Run--Injury (RCW  
16 46.52.020(4)(b))  
17 Hit and Run with Vessel--Injury  
18 Accident (RCW 79A.60.200(3))  
19 Identity Theft 1 (RCW 9.35.020(2))  
20 Indecent Exposure to Person Under  
21 Age Fourteen (subsequent sex  
22 offense) (RCW 9A.88.010)  
23 Influencing Outcome of Sporting Event  
24 (RCW 9A.82.070)  
25 Malicious Harassment (RCW  
26 9A.36.080)  
27 Residential Burglary (RCW  
28 9A.52.025)  
29 Robbery 2 (RCW 9A.56.210)  
30 School Criminal Gang Intimidation  
31 (RCW 9A.46.120)  
32 Theft of Livestock 1 (RCW 9A.56.080)  
33 Threats to Bomb (RCW 9.61.160)  
34 Trafficking in Stolen Property 1 (RCW  
35 9A.82.050)

1 Unlawful factoring of a credit card or  
2 payment card transaction (RCW  
3 9A.56.290(4)(b))  
4 Unlawful transaction of health  
5 coverage as a health care service  
6 contractor (RCW 48.44.016(3))  
7 Unlawful transaction of health  
8 coverage as a health maintenance  
9 organization (RCW 48.46.033(3))  
10 Unlawful transaction of insurance  
11 business (RCW 48.15.023(3))  
12 Unlicensed practice as an insurance  
13 professional (RCW 48.17.063(3))  
14 Use of Proceeds of Criminal  
15 Profiteering (RCW 9A.82.080 (1)  
16 and (2))  
17 Vehicular Assault, by being under the  
18 influence of intoxicating liquor or  
19 any drug, or by the operation or  
20 driving of a vehicle in a reckless  
21 manner (RCW 46.61.522)  
22 Willful Failure to Return from  
23 Furlough (RCW 72.66.060)  
24 III Animal Cruelty 1 (Sexual Conduct or  
25 Contact) (RCW 16.52.205(3))  
26 Assault 3 (Except Assault 3 of a Peace  
27 Officer With a Projectile Stun  
28 Gun) (RCW 9A.36.031 except  
29 subsection (1)(h))  
30 Assault of a Child 3 (RCW 9A.36.140)  
31 Bail Jumping with class B or C Felony  
32 (RCW 9A.76.170(3)(c))  
33 Burglary 2 (RCW 9A.52.030)  
34 Communication with a Minor for  
35 Immoral Purposes (RCW  
36 9.68A.090)

1 ((Criminal Gang Intimidation (RCW  
2 9A.46.120)))  
3 Custodial Assault (RCW 9A.36.100)  
4 Cyberstalking (subsequent conviction  
5 or threat of death) (RCW  
6 9.61.260(3))  
7 Escape 2 (RCW 9A.76.120)  
8 Extortion 2 (RCW 9A.56.130)  
9 Harassment (RCW 9A.46.020)  
10 Intimidating a Public Servant (RCW  
11 9A.76.180)  
12 Introducing Contraband 2 (RCW  
13 9A.76.150)  
14 Malicious Injury to Railroad Property  
15 (RCW 81.60.070)  
16 Negligently Causing Substantial Bodily  
17 Harm By Use of a Signal  
18 Preemption Device (RCW  
19 46.37.674)  
20 Organized Retail Theft 1 (RCW  
21 9A.56.350(2))  
22 Patronizing a Juvenile Prostitute (RCW  
23 9.68A.100)  
24 Perjury 2 (RCW 9A.72.030)  
25 Possession of Incendiary Device (RCW  
26 9.40.120)  
27 Possession of Machine Gun or Short-  
28 Barreled Shotgun or Rifle (RCW  
29 9.41.190)  
30 Promoting Prostitution 2 (RCW  
31 9A.88.080)  
32 ((~~Retail~~)) Retail Theft with  
33 Extenuating Circumstances 1  
34 (RCW 9A.56.360(2))  
35 Securities Act violation (RCW  
36 21.20.400)

1 Tampering with a Witness (RCW  
2 9A.72.120)  
3 Telephone Harassment (subsequent  
4 conviction or threat of death)  
5 (RCW 9.61.230(2))  
6 Theft of Livestock 2 (RCW 9A.56.083)  
7 Theft with the Intent to Resell 1 (RCW  
8 9A.56.340(2))  
9 Trafficking in Stolen Property 2 (RCW  
10 9A.82.055)  
11 Unlawful Imprisonment (RCW  
12 9A.40.040)  
13 Unlawful possession of firearm in the  
14 second degree (RCW 9.41.040(2))  
15 Vehicular Assault, by the operation or  
16 driving of a vehicle with disregard  
17 for the safety of others (RCW  
18 46.61.522)  
19 Willful Failure to Return from Work  
20 Release (RCW 72.65.070)  
21 II Computer Trespass 1 (RCW  
22 9A.52.110)  
23 Counterfeiting (RCW 9.16.035(3))  
24 Escape from Community Custody  
25 (RCW 72.09.310)  
26 Failure to Register as a Sex Offender  
27 (second or subsequent offense)  
28 (RCW 9A.44.130(10)(a))  
29 Health Care False Claims (RCW  
30 48.80.030)  
31 Identity Theft 2 (RCW 9.35.020(3))  
32 Improperly Obtaining Financial  
33 Information (RCW 9.35.010)  
34 Malicious Mischief 1 (RCW  
35 9A.48.070)  
36 Organized Retail Theft 2 (RCW  
37 9A.56.350(3))

1 Possession of Stolen Property 1 (RCW  
2 9A.56.150)  
3 (~~[[Retail]]~~) Retail Theft with  
4 Extenuating Circumstances 2  
5 (RCW 9A.56.360(3))  
6 Theft 1 (RCW 9A.56.030)  
7 Theft of Rental, Leased, or Lease-  
8 purchased Property (valued at one  
9 thousand five hundred dollars or  
10 more) (RCW 9A.56.096(5)(a))  
11 Theft with the Intent to Resell 2 (RCW  
12 9A.56.340(3))  
13 Trafficking in Insurance Claims (RCW  
14 48.30A.015)  
15 Unlawful factoring of a credit card or  
16 payment card transaction (RCW  
17 9A.56.290(4)(a))  
18 Unlawful Practice of Law (RCW  
19 2.48.180)  
20 Unlicensed Practice of a Profession or  
21 Business (RCW 18.130.190(7))  
22 Voyeurism (RCW 9A.44.115)  
23 I Attempting to Elude a Pursuing Police  
24 Vehicle (RCW 46.61.024)  
25 False Verification for Welfare (RCW  
26 74.08.055)  
27 Forgery (RCW 9A.60.020)  
28 Fraudulent Creation or Revocation of a  
29 Mental Health Advance Directive  
30 (RCW 9A.60.060)  
31 Malicious Mischief 2 (RCW  
32 9A.48.080)  
33 Mineral Trespass (RCW 78.44.330)  
34 Possession of Stolen Property 2 (RCW  
35 9A.56.160)  
36 Reckless Burning 1 (RCW 9A.48.040)

1 Taking Motor Vehicle Without  
2 Permission 2 (RCW 9A.56.075)  
3 Theft 2 (RCW 9A.56.040)  
4 Theft of Rental, Leased, or Lease-  
5 purchased Property (valued at two  
6 hundred fifty dollars or more but  
7 less than one thousand five  
8 hundred dollars) (RCW  
9 9A.56.096(5)(b))  
10 Transaction of insurance business  
11 beyond the scope of licensure  
12 (RCW 48.17.063(4))  
13 Unlawful Issuance of Checks or Drafts  
14 (RCW 9A.56.060)  
15 Unlawful Possession of Fictitious  
16 Identification (RCW 9A.56.320)  
17 Unlawful Possession of Instruments of  
18 Financial Fraud (RCW 9A.56.320)  
19 Unlawful Possession of Payment  
20 Instruments (RCW 9A.56.320)  
21 Unlawful Possession of a Personal  
22 Identification Device (RCW  
23 9A.56.320)  
24 Unlawful Production of Payment  
25 Instruments (RCW 9A.56.320)  
26 Unlawful Trafficking in Food Stamps  
27 (RCW 9.91.142)  
28 Unlawful Use of Food Stamps (RCW  
29 9.91.144)  
30 Vehicle Prowl 1 (RCW 9A.52.095)

31 **Sec. 7.** RCW 9.94A.533 and 2006 c 339 s 301 and 2006 c 123 s 1 are  
32 each reenacted and amended to read as follows:

33 (1) The provisions of this section apply to the standard sentence  
34 ranges determined by RCW 9.94A.510 or 9.94A.517.

35 (2) For persons convicted of the anticipatory offenses of criminal  
36 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
37 standard sentence range is determined by locating the sentencing grid

1 sentence range defined by the appropriate offender score and the  
2 seriousness level of the completed crime, and multiplying the range by  
3 seventy-five percent.

4 (3) The following additional times shall be added to the standard  
5 sentence range for felony crimes committed after July 23, 1995, if the  
6 offender or an accomplice was armed with a firearm as defined in RCW  
7 9.41.010 and the offender is being sentenced for one of the crimes  
8 listed in this subsection as eligible for any firearm enhancements  
9 based on the classification of the completed felony crime. If the  
10 offender is being sentenced for more than one offense, the firearm  
11 enhancement or enhancements must be added to the total period of  
12 confinement for all offenses, regardless of which underlying offense is  
13 subject to a firearm enhancement. If the offender or an accomplice was  
14 armed with a firearm as defined in RCW 9.41.010 and the offender is  
15 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
16 commit one of the crimes listed in this subsection as eligible for any  
17 firearm enhancements, the following additional times shall be added to  
18 the standard sentence range determined under subsection (2) of this  
19 section based on the felony crime of conviction as classified under RCW  
20 9A.28.020:

21 (a) Five years for any felony defined under any law as a class A  
22 felony or with a statutory maximum sentence of at least twenty years,  
23 or both, and not covered under (f) of this subsection;

24 (b) Three years for any felony defined under any law as a class B  
25 felony or with a statutory maximum sentence of ten years, or both, and  
26 not covered under (f) of this subsection;

27 (c) Eighteen months for any felony defined under any law as a class  
28 C felony or with a statutory maximum sentence of five years, or both,  
29 and not covered under (f) of this subsection;

30 (d) If the offender is being sentenced for any firearm enhancements  
31 under (a), (b), and/or (c) of this subsection and the offender has  
32 previously been sentenced for any deadly weapon enhancements after July  
33 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
34 (4)(a), (b), and/or (c) of this section, or both, all firearm  
35 enhancements under this subsection shall be twice the amount of the  
36 enhancement listed;

37 (e) Notwithstanding any other provision of law, all firearm  
38 enhancements under this section are mandatory, shall be served in total

1 confinement, and shall run consecutively to all other sentencing  
2 provisions, including other firearm or deadly weapon enhancements, for  
3 all offenses sentenced under this chapter. However, whether or not a  
4 mandatory minimum term has expired, an offender serving a sentence  
5 under this subsection may be granted an extraordinary medical placement  
6 when authorized under RCW 9.94A.728(4);

7 (f) The firearm enhancements in this section shall apply to all  
8 felony crimes except the following: Possession of a machine gun,  
9 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
10 unlawful possession of a firearm in the first and second degree, and  
11 use of a machine gun in a felony;

12 (g) If the standard sentence range under this section exceeds the  
13 statutory maximum sentence for the offense, the statutory maximum  
14 sentence shall be the presumptive sentence unless the offender is a  
15 persistent offender. If the addition of a firearm enhancement  
16 increases the sentence so that it would exceed the statutory maximum  
17 for the offense, the portion of the sentence representing the  
18 enhancement may not be reduced.

19 (4) The following additional times shall be added to the standard  
20 sentence range for felony crimes committed after July 23, 1995, if the  
21 offender or an accomplice was armed with a deadly weapon other than a  
22 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
23 for one of the crimes listed in this subsection as eligible for any  
24 deadly weapon enhancements based on the classification of the completed  
25 felony crime. If the offender is being sentenced for more than one  
26 offense, the deadly weapon enhancement or enhancements must be added to  
27 the total period of confinement for all offenses, regardless of which  
28 underlying offense is subject to a deadly weapon enhancement. If the  
29 offender or an accomplice was armed with a deadly weapon other than a  
30 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
31 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
32 the crimes listed in this subsection as eligible for any deadly weapon  
33 enhancements, the following additional times shall be added to the  
34 standard sentence range determined under subsection (2) of this section  
35 based on the felony crime of conviction as classified under RCW  
36 9A.28.020:

37 (a) Two years for any felony defined under any law as a class A

1 felony or with a statutory maximum sentence of at least twenty years,  
2 or both, and not covered under (f) of this subsection;

3 (b) One year for any felony defined under any law as a class B  
4 felony or with a statutory maximum sentence of ten years, or both, and  
5 not covered under (f) of this subsection;

6 (c) Six months for any felony defined under any law as a class C  
7 felony or with a statutory maximum sentence of five years, or both, and  
8 not covered under (f) of this subsection;

9 (d) If the offender is being sentenced under (a), (b), and/or (c)  
10 of this subsection for any deadly weapon enhancements and the offender  
11 has previously been sentenced for any deadly weapon enhancements after  
12 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
13 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
14 weapon enhancements under this subsection shall be twice the amount of  
15 the enhancement listed;

16 (e) Notwithstanding any other provision of law, all deadly weapon  
17 enhancements under this section are mandatory, shall be served in total  
18 confinement, and shall run consecutively to all other sentencing  
19 provisions, including other firearm or deadly weapon enhancements, for  
20 all offenses sentenced under this chapter. However, whether or not a  
21 mandatory minimum term has expired, an offender serving a sentence  
22 under this subsection may be granted an extraordinary medical placement  
23 when authorized under RCW 9.94A.728(4);

24 (f) The deadly weapon enhancements in this section shall apply to  
25 all felony crimes except the following: Possession of a machine gun,  
26 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
27 unlawful possession of a firearm in the first and second degree, and  
28 use of a machine gun in a felony;

29 (g) If the standard sentence range under this section exceeds the  
30 statutory maximum sentence for the offense, the statutory maximum  
31 sentence shall be the presumptive sentence unless the offender is a  
32 persistent offender. If the addition of a deadly weapon enhancement  
33 increases the sentence so that it would exceed the statutory maximum  
34 for the offense, the portion of the sentence representing the  
35 enhancement may not be reduced.

36 (5) The following additional times shall be added to the standard  
37 sentence range if the offender or an accomplice committed the offense  
38 while in a county jail or state correctional facility and the offender

1 is being sentenced for one of the crimes listed in this subsection. If  
2 the offender or an accomplice committed one of the crimes listed in  
3 this subsection while in a county jail or state correctional facility,  
4 and the offender is being sentenced for an anticipatory offense under  
5 chapter 9A.28 RCW to commit one of the crimes listed in this  
6 subsection, the following additional times shall be added to the  
7 standard sentence range determined under subsection (2) of this  
8 section:

9 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
10 (a) or (b) or 69.50.410;

11 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
12 (c), (d), or (e);

13 (c) Twelve months for offenses committed under RCW 69.50.4013.

14 For the purposes of this subsection, all of the real property of a  
15 state correctional facility or county jail shall be deemed to be part  
16 of that facility or county jail.

17 (6) An additional twenty-four months shall be added to the standard  
18 sentence range for any ranked offense involving a violation of chapter  
19 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
20 9.94A.605. All enhancements under this subsection shall run  
21 consecutively to all other sentencing provisions, for all offenses  
22 sentenced under this chapter.

23 (7) An additional two years shall be added to the standard sentence  
24 range for vehicular homicide committed while under the influence of  
25 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
26 prior offense as defined in RCW 46.61.5055.

27 (8)(a) The following additional times shall be added to the  
28 standard sentence range for felony crimes committed on or after July 1,  
29 2006, if the offense was committed with sexual motivation, as that term  
30 is defined in RCW 9.94A.030. If the offender is being sentenced for  
31 more than one offense, the sexual motivation enhancement must be added  
32 to the total period of total confinement for all offenses, regardless  
33 of which underlying offense is subject to a sexual motivation  
34 enhancement. If the offender committed the offense with sexual  
35 motivation and the offender is being sentenced for an anticipatory  
36 offense under chapter 9A.28 RCW, the following additional times shall  
37 be added to the standard sentence range determined under subsection (2)

1 of this section based on the felony crime of conviction as classified  
2 under RCW 9A.28.020:

3 (i) Two years for any felony defined under the law as a class A  
4 felony or with a statutory maximum sentence of at least twenty years,  
5 or both;

6 (ii) Eighteen months for any felony defined under any law as a  
7 class B felony or with a statutory maximum sentence of ten years, or  
8 both;

9 (iii) One year for any felony defined under any law as a class C  
10 felony or with a statutory maximum sentence of five years, or both;

11 (iv) If the offender is being sentenced for any sexual motivation  
12 enhancements under (i), (ii), and/or (iii) of this subsection and the  
13 offender has previously been sentenced for any sexual motivation  
14 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of  
15 this subsection, all sexual motivation enhancements under this  
16 subsection shall be twice the amount of the enhancement listed;

17 (b) Notwithstanding any other provision of law, all sexual  
18 motivation enhancements under this subsection are mandatory, shall be  
19 served in total confinement, and shall run consecutively to all other  
20 sentencing provisions, including other sexual motivation enhancements,  
21 for all offenses sentenced under this chapter. However, whether or not  
22 a mandatory minimum term has expired, an offender serving a sentence  
23 under this subsection may be granted an extraordinary medical placement  
24 when authorized under RCW 9.94A.728(4);

25 (c) The sexual motivation enhancements in this subsection apply to  
26 all felony crimes;

27 (d) If the standard sentence range under this subsection exceeds  
28 the statutory maximum sentence for the offense, the statutory maximum  
29 sentence shall be the presumptive sentence unless the offender is a  
30 persistent offender. If the addition of a sexual motivation  
31 enhancement increases the sentence so that it would exceed the  
32 statutory maximum for the offense, the portion of the sentence  
33 representing the enhancement may not be reduced;

34 (e) The portion of the total confinement sentence which the  
35 offender must serve under this subsection shall be calculated before  
36 any earned early release time is credited to the offender;

37 (f) Nothing in this subsection prevents a sentencing court from

1 imposing a sentence outside the standard sentence range pursuant to RCW  
2 9.94A.535.

3 (9) The following additional times shall be added to the standard  
4 sentence range for felony crimes, if the offender or an accomplice was  
5 found to be either a gang member or associate as defined in section 5  
6 of this act, and the offense for which the offender is being sentenced  
7 is a gang-related offense as defined in section 5 of this act. If the  
8 offender is being sentenced for more than one offense, the gang  
9 sentencing enhancement or enhancements must be added to the total  
10 period of confinement for all offenses, regardless of which underlying  
11 offense is subject to a gang sentencing enhancement:

12 (a) Thirty months for any felony defined under any law as a class  
13 A felony or with a statutory maximum sentence of at least twenty years,  
14 or both, and not covered under (f) of this subsection;

15 (b) Twenty-four months for any felony defined under any law as a  
16 class B felony or with a statutory maximum sentence of ten years, or  
17 both, and not covered under (f) of this subsection;

18 (c) Eighteen months for any felony defined under any law as a class  
19 C felony or with a statutory maximum sentence of five years, or both,  
20 and not covered under (f) of this subsection;

21 (d) If the offender is being sentenced for any gang sentencing  
22 enhancements under (a), (b), and/or (c) of this subsection and the  
23 offender has previously been sentenced for any gang sentencing  
24 enhancement and/or any deadly weapon enhancement, or both, all  
25 enhancements under this subsection shall be three times the amount of  
26 the enhancement listed;

27 (e) Notwithstanding any other provision of law, all gang sentencing  
28 enhancements under this section are mandatory, shall be served in total  
29 confinement, and shall run consecutively to all other sentencing  
30 provisions, including other gang sentencing, firearm, or deadly weapon  
31 enhancements, for all offenses sentenced under this chapter. However,  
32 whether or not a mandatory minimum term has expired, an offender  
33 servng a sentence under this subsection may be granted an  
34 extraordinary medical placement when authorized under RCW 9.94A.728(4);

35 (f) If the standard sentence range under this section exceeds the  
36 statutory maximum sentence for the offense, the statutory maximum  
37 sentence shall be the presumptive sentence unless the offender is a  
38 persistent offender. If the addition of a firearm enhancement

1 increases the sentence so that it would exceed the statutory maximum  
2 for the offense, the portion of the sentence representing the  
3 enhancement may not be reduced.

4 **Sec. 8.** RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are  
5 each reenacted and amended to read as follows:

6 (1) Decision not to prosecute.

7 STANDARD: A prosecuting attorney may decline to prosecute, even  
8 though technically sufficient evidence to prosecute exists, in  
9 situations where prosecution would serve no public purpose, would  
10 defeat the underlying purpose of the law in question or would result in  
11 decreased respect for the law.

12 GUIDELINE/COMMENTARY:

13 Examples

14 The following are examples of reasons not to prosecute which could  
15 satisfy the standard.

16 (a) Contrary to Legislative Intent - It may be proper to decline to  
17 charge where the application of criminal sanctions would be clearly  
18 contrary to the intent of the legislature in enacting the particular  
19 statute.

20 (b) Antiquated Statute - It may be proper to decline to charge  
21 where the statute in question is antiquated in that:

22 (i) It has not been enforced for many years; and

23 (ii) Most members of society act as if it were no longer in  
24 existence; and

25 (iii) It serves no deterrent or protective purpose in today's  
26 society; and

27 (iv) The statute has not been recently reconsidered by the  
28 legislature.

29 This reason is not to be construed as the basis for declining cases  
30 because the law in question is unpopular or because it is difficult to  
31 enforce.

32 (c) De Minimis Violation - It may be proper to decline to charge  
33 where the violation of law is only technical or insubstantial and where  
34 no public interest or deterrent purpose would be served by prosecution.

35 (d) Confinement on Other Charges - It may be proper to decline to  
36 charge because the accused has been sentenced on another charge to a  
37 lengthy period of confinement; and

1 (i) Conviction of the new offense would not merit any additional  
2 direct or collateral punishment;

3 (ii) The new offense is either a misdemeanor or a felony which is  
4 not particularly aggravated; and

5 (iii) Conviction of the new offense would not serve any significant  
6 deterrent purpose.

7 (e) Pending Conviction on Another Charge - It may be proper to  
8 decline to charge because the accused is facing a pending prosecution  
9 in the same or another county; and

10 (i) Conviction of the new offense would not merit any additional  
11 direct or collateral punishment;

12 (ii) Conviction in the pending prosecution is imminent;

13 (iii) The new offense is either a misdemeanor or a felony which is  
14 not particularly aggravated; and

15 (iv) Conviction of the new offense would not serve any significant  
16 deterrent purpose.

17 (f) High Disproportionate Cost of Prosecution - It may be proper to  
18 decline to charge where the cost of locating or transporting, or the  
19 burden on, prosecution witnesses is highly disproportionate to the  
20 importance of prosecuting the offense in question. This reason should  
21 be limited to minor cases and should not be relied upon in serious  
22 cases.

23 (g) Improper Motives of Complainant - It may be proper to decline  
24 charges because the motives of the complainant are improper and  
25 prosecution would serve no public purpose, would defeat the underlying  
26 purpose of the law in question or would result in decreased respect for  
27 the law.

28 (h) Immunity - It may be proper to decline to charge where immunity  
29 is to be given to an accused in order to prosecute another where the  
30 accused's information or testimony will reasonably lead to the  
31 conviction of others who are responsible for more serious criminal  
32 conduct or who represent a greater danger to the public interest.

33 (i) Victim Request - It may be proper to decline to charge because  
34 the victim requests that no criminal charges be filed and the case  
35 involves the following crimes or situations:

36 (i) Assault cases where the victim has suffered little or no  
37 injury;

1 (ii) Crimes against property, not involving violence, where no  
2 major loss was suffered;

3 (iii) Where doing so would not jeopardize the safety of society.

4 Care should be taken to insure that the victim's request is freely  
5 made and is not the product of threats or pressure by the accused.

6 The presence of these factors may also justify the decision to  
7 dismiss a prosecution which has been commenced.

8 Notification

9 The prosecutor is encouraged to notify the victim, when practical,  
10 and the law enforcement personnel, of the decision not to prosecute.

11 (2) Decision to prosecute.

12 (a) STANDARD:

13 Crimes against persons will be filed if sufficient admissible  
14 evidence exists, which, when considered with the most plausible,  
15 reasonably foreseeable defense that could be raised under the evidence,  
16 would justify conviction by a reasonable and objective fact-finder.  
17 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,  
18 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
19 9A.64.020 the prosecutor should avoid pre-filing agreements or  
20 diversions intended to place the accused in a program of treatment or  
21 counseling, so that treatment, if determined to be beneficial, can be  
22 provided pursuant to RCW 9.94A.670.

23 Crimes against property/other crimes will be filed if the  
24 admissible evidence is of such convincing force as to make it probable  
25 that a reasonable and objective fact-finder would convict after hearing  
26 all the admissible evidence and the most plausible defense that could  
27 be raised.

28 See table below for the crimes within these categories.

29 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

30 CRIMES AGAINST PERSONS

31 Aggravated Murder

32 1st Degree Murder

33 2nd Degree Murder

34 1st Degree Manslaughter

35 2nd Degree Manslaughter

36 1st Degree Kidnapping

37 2nd Degree Kidnapping

38 1st Degree Assault

1 2nd Degree Assault  
2 3rd Degree Assault  
3 1st Degree Assault of a Child  
4 2nd Degree Assault of a Child  
5 3rd Degree Assault of a Child  
6 1st Degree Rape  
7 2nd Degree Rape  
8 3rd Degree Rape  
9 1st Degree Rape of a Child  
10 2nd Degree Rape of a Child  
11 3rd Degree Rape of a Child  
12 1st Degree Robbery  
13 2nd Degree Robbery  
14 1st Degree Arson  
15 1st Degree Burglary  
16 1st Degree Identity Theft  
17 2nd Degree Identity Theft  
18 1st Degree Extortion  
19 2nd Degree Extortion  
20 Indecent Liberties  
21 Incest  
22 Vehicular Homicide  
23 Vehicular Assault  
24 1st Degree Child Molestation  
25 2nd Degree Child Molestation  
26 3rd Degree Child Molestation  
27 1st Degree Promoting Prostitution  
28 Intimidating a Juror  
29 Communication with a Minor  
30 Intimidating a Witness  
31 Intimidating a Public Servant  
32 Bomb Threat (if against person)  
33 Unlawful Imprisonment  
34 Promoting a Suicide Attempt  
35 Riot (if against person)  
36 Criminal Gang Intimidation  
37 Stalking  
38 Custodial Assault

1 Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050,  
2 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)  
3 Counterfeiting (if a violation of RCW 9.16.035(4))  
4 Felony Driving a Motor Vehicle While Under the Influence of  
5 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))  
6 Felony Physical Control of a Motor Vehicle While Under the  
7 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))  
8 CRIMES AGAINST PROPERTY/OTHER CRIMES  
9 2nd Degree Arson  
10 1st Degree Escape  
11 2nd Degree Escape  
12 2nd Degree Burglary  
13 1st Degree Theft  
14 2nd Degree Theft  
15 1st Degree Perjury  
16 2nd Degree Perjury  
17 1st Degree Introducing Contraband  
18 2nd Degree Introducing Contraband  
19 1st Degree Possession of Stolen Property  
20 2nd Degree Possession of Stolen Property  
21 Bribery  
22 Bribing a Witness  
23 Bribe received by a Witness  
24 Bomb Threat (if against property)  
25 1st Degree Malicious Mischief  
26 2nd Degree Malicious Mischief  
27 1st Degree Reckless Burning  
28 Taking a Motor Vehicle without Authorization  
29 Forgery  
30 2nd Degree Promoting Prostitution  
31 Tampering with a Witness  
32 Trading in Public Office  
33 Trading in Special Influence  
34 Receiving/Granting Unlawful Compensation  
35 Bigamy  
36 Eluding a Pursuing Police Vehicle  
37 Willful Failure to Return from Furlough  
38 Escape from Community Custody

1 Riot (if against property)  
2 1st Degree Theft of Livestock  
3 2nd Degree Theft of Livestock

4 ALL OTHER UNCLASSIFIED FELONIES

5 Selection of Charges/Degree of Charge

6 (i) The prosecutor should file charges which adequately describe  
7 the nature of defendant's conduct. Other offenses may be charged only  
8 if they are necessary to ensure that the charges:

9 (A) Will significantly enhance the strength of the state's case at  
10 trial; or

11 (B) Will result in restitution to all victims.

12 (ii) The prosecutor should not overcharge to obtain a guilty plea.

13 Overcharging includes:

14 (A) Charging a higher degree;

15 (B) Charging additional counts.

16 This standard is intended to direct prosecutors to charge those  
17 crimes which demonstrate the nature and seriousness of a defendant's  
18 criminal conduct, but to decline to charge crimes which are not  
19 necessary to such an indication. Crimes which do not merge as a matter  
20 of law, but which arise from the same course of conduct, do not all  
21 have to be charged.

22 (b) GUIDELINES/COMMENTARY:

23 (i) Police Investigation

24 A prosecuting attorney is dependent upon law enforcement agencies  
25 to conduct the necessary factual investigation which must precede the  
26 decision to prosecute. The prosecuting attorney shall ensure that a  
27 thorough factual investigation has been conducted before a decision to  
28 prosecute is made. In ordinary circumstances the investigation should  
29 include the following:

30 (A) The interviewing of all material witnesses, together with the  
31 obtaining of written statements whenever possible;

32 (B) The completion of necessary laboratory tests; and

33 (C) The obtaining, in accordance with constitutional requirements,  
34 of the suspect's version of the events.

35 If the initial investigation is incomplete, a prosecuting attorney  
36 should insist upon further investigation before a decision to prosecute  
37 is made, and specify what the investigation needs to include.

38 (ii) Exceptions

1 In certain situations, a prosecuting attorney may authorize filing  
2 of a criminal complaint before the investigation is complete if:

3 (A) Probable cause exists to believe the suspect is guilty; and

4 (B) The suspect presents a danger to the community or is likely to  
5 flee if not apprehended; or

6 (C) The arrest of the suspect is necessary to complete the  
7 investigation of the crime.

8 In the event that the exception to the standard is applied, the  
9 prosecuting attorney shall obtain a commitment from the law enforcement  
10 agency involved to complete the investigation in a timely manner. If  
11 the subsequent investigation does not produce sufficient evidence to  
12 meet the normal charging standard, the complaint should be dismissed.

13 (iii) Investigation Techniques

14 The prosecutor should be fully advised of the investigatory  
15 techniques that were used in the case investigation including:

16 (A) Polygraph testing;

17 (B) Hypnosis;

18 (C) Electronic surveillance;

19 (D) Use of informants.

20 (iv) Pre-Filing Discussions with Defendant

21 Discussions with the defendant or his/her representative regarding  
22 the selection or disposition of charges may occur prior to the filing  
23 of charges, and potential agreements can be reached.

24 (v) Pre-Filing Discussions with Victim(s)

25 Discussions with the victim(s) or victims' representatives  
26 regarding the selection or disposition of charges may occur before the  
27 filing of charges. The discussions may be considered by the prosecutor  
28 in charging and disposition decisions, and should be considered before  
29 reaching any agreement with the defendant regarding these decisions.

30 **Sec. 9.** RCW 13.40.0357 and 2006 c 73 s 14 are each amended to read  
31 as follows:

32 **DESCRIPTION AND OFFENSE CATEGORY**

1		JUVENILE DISPOSITION
2	JUVENILE	CATEGORY FOR
3	DISPOSITION	ATTEMPT, BAILJUMP,
4	OFFENSE	CONSPIRACY, OR
5	CATEGORY	DESCRIPTION (RCW CITATION)
6		SOLICITATION
7	.....	
7	<b>Arson and Malicious Mischief</b>	
8	A	Arson 1 (9A.48.020) B
9	B	Arson 2 (9A.48.030) C
10	C	Reckless Burning 1 (9A.48.040) D
11	D	Reckless Burning 2 (9A.48.050) E
12	B	Malicious Mischief 1 (9A.48.070) C
13	C	Malicious Mischief 2 (9A.48.080) D
14	D	Malicious Mischief 3 (9A.48.090(2) (a) and
15		(c)) E
16	E	Malicious Mischief 3 (9A.48.090(2)(b)) E
17	E	Tampering with Fire Alarm Apparatus
18		(9.40.100) E
19	E	Tampering with Fire Alarm Apparatus with
20		Intent to Commit Arson (9.40.105) E
21	A	Possession of Incendiary Device (9.40.120) B+
22	<u>B</u>	<u>Tagging/Gang Graffiti, 2nd or subsequent</u>
23		<u>offense (section 4(2)(b) of this act)</u> <u>C</u>
24	<u>D</u>	<u>Tagging/Gang Graffiti, 1st offense (section</u>
25		<u>4(2)(a) of this act)</u> <u>E</u>
26	<b>Assault and Other Crimes Involving</b>	
27	<b>Physical Harm</b>	
28	A	Assault 1 (9A.36.011) B+
29	B+	Assault 2 (9A.36.021) C+
30	C+	Assault 3 (9A.36.031) D+
31	D+	Assault 4 (9A.36.041) E
32	B+	Drive-By Shooting (9A.36.045) C+
33	D+	Reckless Endangerment (9A.36.050) E
34	C+	Promoting Suicide Attempt (9A.36.060) D+
35	D+	Coercion (9A.36.070) E
36	C+	Custodial Assault (9A.36.100) D+
37	<b>Burglary and Trespass</b>	

1	B+	Burglary 1 (9A.52.020)	C+
2	B	Residential Burglary (9A.52.025)	C
3	B	Burglary 2 (9A.52.030)	C
4	D	Burglary Tools (Possession of) (9A.52.060)	E
5	D	Criminal Trespass 1 (9A.52.070)	E
6	E	Criminal Trespass 2 (9A.52.080)	E
7	C	Mineral Trespass (78.44.330)	C
8	C	Vehicle Prowling 1 (9A.52.095)	D
9	D	Vehicle Prowling 2 (9A.52.100)	E
10		<b>Drugs</b>	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend Drug	
16		with Intent to Sell (69.41.030(2)(a))	D+
17	E	Possession of Legend Drug	
18		(69.41.030(2)(b))	E
19	B+	Violation of Uniform Controlled Substances	
20		Act - Narcotic, Methamphetamine, or	
21		Flunitrazepam Sale (69.50.401(2) (a) or	
22		(b))	B+
23	C	Violation of Uniform Controlled Substances	
24		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
25	E	Possession of Marihuana <40 grams	
26		(69.50.4014)	E
27	C	Fraudulently Obtaining Controlled	
28		Substance (69.50.403)	C
29	C+	Sale of Controlled Substance for Profit	
30		(69.50.410)	C+
31	E	Unlawful Inhalation (9.47A.020)	E
32	B	Violation of Uniform Controlled Substances	
33		Act - Narcotic, Methamphetamine, or	
34		Flunitrazepam Counterfeit Substances	
35		(69.50.4011(2) (a) or (b))	B

1	C	Violation of Uniform Controlled Substances	
2		Act - Nonnarcotic Counterfeit Substances	
3		(69.50.4011(2) (c), (d), or (e))	C
4	C	Violation of Uniform Controlled Substances	
5		Act - Possession of a Controlled Substance	
6		(69.50.4013)	C
7	C	Violation of Uniform Controlled Substances	
8		Act - Possession of a Controlled Substance	
9		(69.50.4012)	C
10		<b>Firearms and Weapons</b>	
11	B	Theft of Firearm (9A.56.300)	C
12	B	Possession of Stolen Firearm (9A.56.310)	C
13	E	Carrying Loaded Pistol Without Permit	
14		(9.41.050)	E
15	C	Possession of Firearms by Minor (<18)	
16		(9.41.040(2)(a)(iii))	C
17	D+	Possession of Dangerous Weapon	
18		(9.41.250)	E
19	D	Intimidating Another Person by use of	
20		Weapon (9.41.270)	E
21		<b>Homicide</b>	
22	A+	Murder 1 (9A.32.030)	A
23	A+	Murder 2 (9A.32.050)	B+
24	B+	Manslaughter 1 (9A.32.060)	C+
25	C+	Manslaughter 2 (9A.32.070)	D+
26	B+	Vehicular Homicide (46.61.520)	C+
27		<b>Kidnapping</b>	
28	A	Kidnap 1 (9A.40.020)	B+
29	B+	Kidnap 2 (9A.40.030)	C+
30	C+	Unlawful Imprisonment (9A.40.040)	D+
31		<b>Obstructing Governmental Operation</b>	
32	D	Obstructing a Law Enforcement Officer	
33		(9A.76.020)	E
34	E	Resisting Arrest (9A.76.040)	E
35	B	Introducing Contraband 1 (9A.76.140)	C
36	C	Introducing Contraband 2 (9A.76.150)	D

1	E	Introducing Contraband 3 (9A.76.160)	E
2	B+	Intimidating a Public Servant (9A.76.180)	C+
3	B+	Intimidating a Witness (9A.72.110)	C+
4		<b>Public Disturbance</b>	
5	C+	Riot with Weapon (9A.84.010(2)(b))	D+
6	D+	Riot Without Weapon (9A.84.010(2)(a))	E
7	E	Failure to Disperse (9A.84.020)	E
8	E	Disorderly Conduct (9A.84.030)	E
9		<b>Sex Crimes</b>	
10	A	Rape 1 (9A.44.040)	B+
11	A-	Rape 2 (9A.44.050)	B+
12	C+	Rape 3 (9A.44.060)	D+
13	A-	Rape of a Child 1 (9A.44.073)	B+
14	B+	Rape of a Child 2 (9A.44.076)	C+
15	B	Incest 1 (9A.64.020(1))	C
16	C	Incest 2 (9A.64.020(2))	D
17	D+	Indecent Exposure (Victim <14)	
18		(9A.88.010)	E
19	E	Indecent Exposure (Victim 14 or over)	
20		(9A.88.010)	E
21	B+	Promoting Prostitution 1 (9A.88.070)	C+
22	C+	Promoting Prostitution 2 (9A.88.080)	D+
23	E	O & A (Prostitution) (9A.88.030)	E
24	B+	Indecent Liberties (9A.44.100)	C+
25	A-	Child Molestation 1 (9A.44.083)	B+
26	B	Child Molestation 2 (9A.44.086)	C+
27		<b>Theft, Robbery, Extortion, and Forgery</b>	
28	B	Theft 1 (9A.56.030)	C
29	C	Theft 2 (9A.56.040)	D
30	D	Theft 3 (9A.56.050)	E
31	B	Theft of Livestock 1 and 2 (9A.56.080 and	
32		9A.56.083)	C
33	C	Forgery (9A.60.020)	D
34	A	Robbery 1 (9A.56.200)	B+
35	B+	Robbery 2 (9A.56.210)	C+
36	B+	Extortion 1 (9A.56.120)	C+

1	C+	Extortion 2 (9A.56.130)	D+
2	C	Identity Theft 1 (9.35.020(2))	D
3	D	Identity Theft 2 (9.35.020(3))	E
4	D	Improperly Obtaining Financial Information	
5		(9.35.010)	E
6	B	Possession of Stolen Property 1	
7		(9A.56.150)	C
8	C	Possession of Stolen Property 2	
9		(9A.56.160)	D
10	D	Possession of Stolen Property 3	
11		(9A.56.170)	E
12	C	Taking Motor Vehicle Without Permission	
13		1 and 2 (9A.56.070 and 9A.56.075)	D
14		<b>Motor Vehicle Related Crimes</b>	
15	E	Driving Without a License (46.20.005)	E
16	B+	Hit and Run - Death (46.52.020(4)(a))	C+
17	C	Hit and Run - Injury (46.52.020(4)(b))	D
18	D	Hit and Run-Attended (46.52.020(5))	E
19	E	Hit and Run-Unattended (46.52.010)	E
20	C	Vehicle Assault (46.61.522)	D
21	C	Attempting to Elude Pursuing Police	
22		Vehicle (46.61.024)	D
23	E	Reckless Driving (46.61.500)	E
24	D	Driving While Under the Influence	
25		(46.61.502 and 46.61.504)	E
26	B+	Felony Driving While Under the Influence	
27		(46.61.502(6))	B
28	B+	Felony Physical Control of a Vehicle While	
29		Under the Influence (46.61.504(6))	B
30		<b>Other</b>	
31	B	Animal Cruelty 1 (16.52.205)	C
32	B	Bomb Threat (9.61.160)	C
33	C	Escape 1 <sup>1</sup> (9A.76.110)	C
34	C	Escape 2 <sup>1</sup> (9A.76.120)	C
35	D	Escape 3 (9A.76.130)	E
36	E	Obscene, Harassing, Etc., Phone Calls	
37		(9.61.230)	E



1		EXCEPT			
2		30-40			
3		WEEKS FOR			
4		15-17			
5		YEAR OLDS			
6					
7	Current	B+	15-36	52-65	80-100
8	Offense		WEEKS	WEEKS	WEEKS
9	Category				
10		B	LOCAL		52-65
11			SANCTIONS (LS)	15-36 WEEKS	WEEKS
12					
13		C+	LS		
14				15-36 WEEKS	
15					
16		C	LS		15-36 WEEKS
17			Local Sanctions:		
18			0 to 30 Days		
19		D+	LS	0 to 12 Months Community Supervision	
20				0 to 150 Hours Community Restitution	
21		D	LS	\$0 to \$500 Fine	
22					
23		E	LS		
24					
25				0	1
26				2	3
27				4	or more
				PRIOR ADJUDICATIONS	

28 NOTE: References in the grid to days or weeks mean periods of  
 29 confinement.

30 (1) The vertical axis of the grid is the current offense category.  
 31 The current offense category is determined by the offense of  
 32 adjudication.

33 (2) The horizontal axis of the grid is the number of prior  
 34 adjudications included in the juvenile's criminal history. Each prior  
 35 felony adjudication shall count as one point. Each prior violation,  
 36 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
 37 point. Fractional points shall be rounded down.

38 (3) The standard range disposition for each offense is determined  
 39 by the intersection of the column defined by the prior adjudications  
 40 and the row defined by the current offense category.

41 (4) RCW 13.40.180 applies if the offender is being sentenced for  
 42 more than one offense.

1 (5) A current offense that is a violation is equivalent to an  
2 offense category of E. However, a disposition for a violation shall  
3 not include confinement.

4 OR

5 **OPTION B**

6 **SUSPENDED DISPOSITION ALTERNATIVE**

7 (1) If the offender is subject to a standard range disposition  
8 involving confinement by the department, the court may impose the  
9 standard range and suspend the disposition on condition that the  
10 offender comply with one or more local sanctions and any educational or  
11 treatment requirement. The treatment programs provided to the offender  
12 must be research-based best practice programs as identified by the  
13 Washington state institute for public policy or the joint legislative  
14 audit and review committee.

15 (2) If the offender fails to comply with the suspended disposition,  
16 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
17 the suspended disposition and order the disposition's execution.

18 (3) An offender is ineligible for the suspended disposition option  
19 under this section if the offender is:

20 (a) Adjudicated of an A+ offense;

21 (b) Fourteen years of age or older and is adjudicated of one or  
22 more of the following offenses:

23 (i) A class A offense, or an attempt, conspiracy, or solicitation  
24 to commit a class A offense;

25 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

26 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
27 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
28 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
29 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
30 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
31 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
32 witness (RCW 9A.72.110), violation of the uniform controlled substances  
33 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),  
34 when the offense includes infliction of bodily harm upon another or  
35 when during the commission or immediate withdrawal from the offense the  
36 respondent was armed with a deadly weapon;

1 (c) Ordered to serve a disposition for a firearm violation under  
2 RCW 13.40.193; or

3 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

4 OR

5 **OPTION C**

6 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

7 If the juvenile offender is subject to a standard range disposition  
8 of local sanctions or 15 to 36 weeks of confinement and has not  
9 committed an A- or B+ offense, the court may impose a disposition under  
10 RCW 13.40.160(4) and 13.40.165.

11 OR

12 **OPTION D**

13 **MANIFEST INJUSTICE**

14 If the court determines that a disposition under option A, B, or C  
15 would effectuate a manifest injustice, the court shall impose a  
16 disposition outside the standard range under RCW 13.40.160(2).

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 9A.46 RCW  
18 to read as follows:

19 (1) It is critical that parents, teachers, students, and others  
20 working with youth understand that prevention is an important key to  
21 controlling gang activity within our communities and that they learn  
22 the warning signs of gang membership in order to better help children  
23 avoid involvement with gangs.

24 (2) The superintendent of public instruction shall create and  
25 distribute "Gang Indicators" brochures for distribution in each school  
26 district of the state which include, at a minimum, the gang indicators  
27 listed in this subsection. It is important to understand that many of  
28 the indicators listed may be innocent by themselves, but when put  
29 together they may strongly signal gang involvement.

30 (a) Changes in the child's behavior;

31 (b) Not associating with long-time friends and being secretive  
32 about new friends and activities;

33 (c) Changes in hair or dress style and/or having a group of friends  
34 who have the same hair or dress style;

- 1 (d) Changes in normal routines with new friends, such as not coming  
2 home after school or staying out late at night with no explanation;
- 3 (e) Suspected drug use, such as alcohol, inhalants, and narcotics;
- 4 (f) Unexplained material possessions such as expensive clothing,  
5 jewelry, money, etc.;
- 6 (g) The presence of firearms, ammunition, or other deadly weapons;
- 7 (h) Change in attitude about school, church, or other normal  
8 activities;
- 9 (i) Discipline problems at school, church, or other attended  
10 functions;
- 11 (j) Lower grades at school or skipping school;
- 12 (k) Change in behavior at home-increase in confrontational  
13 behavior, such as talking back, verbal abuse, name calling, and a  
14 disrespect for parental authority;
- 15 (l) A new fear of or contempt for police;
- 16 (m) Phone threats to the family from rival gangs, or unknown  
17 callers, directed against your child;
- 18 (n) Photographs of your child and others displaying gang hand  
19 signs, weapons, cash, drugs, or gang-type clothing;
- 20 (o) Graffiti on or around your residence, especially in a child's  
21 room such as on walls, furniture, clothing, notebooks, etc., which may  
22 include drawings and "doodling" of gang-related figures, themes of  
23 violence, or gang symbolisms;
- 24 (p) Physical signs of being in a fight, such as bruises and cuts  
25 and secrecy on the child's part as to how they were received;
- 26 (q) A new found sense of bravery-brags that he/she are too tough to  
27 be "messed" with;
- 28 (r) Use of a new nickname;
- 29 (s) A newfound sympathy or defending of gang activity by your  
30 child; and
- 31 (t) Tattoos or "branding" with gang-related symbols.

32 NEW SECTION. **Sec. 11.** An anticriminal gang task force is created  
33 for the purpose of evaluating the problem of gang-related crime in  
34 Washington state.

35 (1) The task force shall evaluate and make recommendations  
36 regarding the following:

1 (a) Additional legislative measures needed to combat gang-related  
2 crime;

3 (b) The creation and operation of a statewide gang information  
4 database;

5 (c) Recommended reforms to the juvenile justice system for gang-  
6 related juvenile offenses;

7 (d) Recommended best practices for preventing gang membership; and  
8 (e) The adoption of a California-style civil antigang injunction.

9 (2) The task force shall consist of the following members:

10 (a) One member from each of the two largest caucuses of the house  
11 of representatives, appointed by the speaker of the house of  
12 representatives;

13 (b) One member from each of the two largest caucuses of the senate,  
14 appointed by the president of the senate;

15 (c) Two members representing the attorney general's policy office,  
16 and/or the criminal justice division, appointed by the attorney  
17 general;

18 (d) Two members representing the governor's policy office, and/or  
19 the governor's council on juvenile justice, appointed by the governor;

20 (e) Two members appointed by the Washington association of  
21 prosecuting attorneys;

22 (f) Two members appointed by the Washington association of sheriffs  
23 and police chiefs;

24 (g) One member appointed by the Washington association of criminal  
25 defense lawyers;

26 (h) One member appointed by the superior court judges' association;

27 (i) One member appointed by the district and municipal court judges  
28 association;

29 (j) One member appointed by the association of Washington cities;

30 (k) One member appointed by the Washington state association of  
31 counties;

32 (l) Two members appointed by the secretary of the department of  
33 corrections;

34 (m) One civilian who has been a victim of criminal gang violence,  
35 appointed by the task force members designated in (a) through (l) of  
36 this subsection;

37 (n) One civilian who has been a victim of school criminal gang

1 violence, appointed by the task force members designated in (a) through  
2 (1) of this subsection.

3 (3) The task force shall choose its chair from among its members.

4 (4) The task force may conduct meetings, select officers, and  
5 prescribe rules of procedure. The task force shall cooperate, act, and  
6 function with legislative committees and executive agencies as  
7 necessary to complete its business.

8 (5) The task force may contract with additional persons who have  
9 specific technical or statistical expertise in criminal gang  
10 prevention, if such expertise is necessary to carry out the mandates of  
11 the task force.

12 (6) Legislative members of the task force shall be reimbursed for  
13 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
14 members are entitled to be reimbursed for travel expenses in accordance  
15 with RCW 43.03.050 and 43.03.060.

16 (7) The task force shall report its findings and recommendations to  
17 the attorney general, governor, and appropriate committees of the  
18 legislature by January 1, 2008.

19 (8) This section expires July 1, 2008.

20 NEW SECTION. **Sec. 12.** (1) The sum of fifty thousand dollars, or  
21 as much thereof as may be necessary, is appropriated for the fiscal  
22 year ending June 30, 2007, from the state general fund to the attorney  
23 general for the purposes of providing staffing and support to the  
24 anticriminal gang task force.

25 (2) The sum of one hundred thousand dollars, or as much thereof as  
26 may be necessary, is appropriated for the fiscal year ending June 30,  
27 2008, from the state general fund to the attorney general for the  
28 purposes of providing staffing and support to the anticriminal gang  
29 task force.

30 NEW SECTION. **Sec. 13.** The sum of . . . . ., or as much thereof  
31 as may be necessary, is appropriated for the fiscal year ending June  
32 30, 2007, from the state general fund to the superintendent of public  
33 instruction for the purposes of creating and distributing "Gang  
34 Indicators" brochures under section 10 of this act.

1        NEW SECTION.    **Sec. 14.**    Sections 10 through 13 of this act are  
2    necessary for the immediate preservation of the public peace, health,  
3    or safety, or support of the state government and its existing public  
4    institutions, and take effect immediately.

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